GOVERNMENT OF INDIA
FINANCE
LOK SABHA

UNSTARRED QUESTION NO:4175
ANSWERED ON:14.12.2001
TAX TREATY WITH JAPAN
RENU KUMARI SINGH

Will the Minister of FINANCE be pleased to state:

(a) whether Japan has shown its willingness to review the tax treaty with India;

(b) if so, the reaction of the Government thereto; and

(c) the article-wise details of the duties in the field of trade and investment between India and Japan?

Answer

MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI GINGEE N. RAMACHANDRAN)

(a) The Government of Japan has no objection for the review of the tax treaty with India with respect to the removal ofprovisions relating to withholding of tax @ 20% on fee for technical services.

(b) The review of the Tax Treaty to completely remove the provision of withholding tax on fee for technical services may not be in the interest of the country.

(c) As per Annexure.

ANNEXURE TO LOK SABHA UNSTARRED QUESTION No. 4175 TO BE ANSWERED ON FRIDAY, THE 14TH DECEMBER, 2001 (23 AGRAHAYANA, 1923-Saka)

The existing Double Taxation Avoidance Convention (DTAC) between India andJapan, allocates right to taxation of income between the source and resident country. As per Article 7 of DTAC, the country of residence gets the right to tax the business income. However, the source country gets the right to tax Business Income only, if there is a `Permanent Establishment` or `a fixedplace of business` there. Taxation of business income is on net income from business at the rates prescribed in the domestic law of respective countries. The jurisdiction of taxation to other stream of income are allocated either to the source country or to the residence country at the rates prescribed in the domestic law of the source/resident country. The DTAC gives the right oftaxation in respect of the income of the nature of interest, dividends, royalty and fees for technical services to the country of residence. However, the source country is also given the right but such taxation has to be limited to the rates prescribed in the DTAC as under :-

Article	Category for receipts	Rate of duty/tax as per DTAC
10	Dividends	15 %
11	Interests	10 % for Banks 15 % for others
12	Royalties and fees for technical services	20 %